IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2216 OF 2005

Shri Ashok Anandrao Bhosale & Ors. : Petitioners
(Orig. Defendants)

V/s.

Shri Arjun Subhana Kamble & Ors. : Respondents
(Orig. Plaintiffs)

...

Mr.A.Y.Sakhare for the petitioners.

Mr.Amit B. Borkar for the respondents.

...

CORAM : S.A. BOBDE, J.

July 4, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Borkar, learned counsel, appears and waives service of rule on behalf of the respondents.

Heard by consent.

2. The learned counsel for the petitioners pointed out the observations of the appellate Court in para 8 where the appellate Court has observed as under:-

"It appears that, the plaintiffs are shown

to be in possession over some part of land owned by the defendants."

According to the learned counsel, the injunction granted by the appellate Court restraining the petitioners from causing obstructions to the respondents' possession over the suit property is, therefore, unsustainable if it covers even land belonging to the petitioners which the respondents are illegally occupying. The learned counsel for the petitioners is correct in making this submission.

3. Mr.Borkar, learned counsel for the respondent-State submits that the injunction is only in respect of the suit property described in para 1 of the plaint and the respondents will not create any disturbance in regard to the petitioners' occupation of their property and that the injunction will operate only in respect of the property described in para 1 of the plaint. On this statement being made by the learned counsel for the respondents, there is no need to interfere.

4. The Writ Petition is disposed of in the above terms. The rule is partly made absolute.

S.A. BOBDE, J.